

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
EUREKA DIVISION

ANTHONY PRATT,  
Plaintiff,

v.

JAMES ROBERTSON, WARDEN,  
Defendant.

Case No. 22-cv-04558-RMI

**SHOW CAUSE ORDER**

Re: Dkt. No. 16

Petitioner, a California state prisoner, filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Petitioner is presently serving a 25-years-to-life sentence at Pelican Bay State Prison for the murder of Gary Smith. (Dkt. 16, p. 2). Petitioner alleges that he was deprived of due process at his trial due to insufficient evidence of his guilt, the improper exclusion of favorable evidence, jury instruction errors, and ineffective assistance of counsel. *Id.* at 9–12. This court had previously stayed Petitioner’s case so that he could exhaust his claims before the California courts. (Dkt. 6); *see Kelley v. Small*, 315 F.3d 1063 (9th Cir. 2003). Petitioner has since moved to lift the stay, and the court has granted the motion. (Dkts. 14, 15). Now before the court is Petitioner’s amended petition. (Dkt. 16).

This court may entertain a petition for a writ of habeas corpus on behalf of a person “in custody in violation of the Constitution or laws or treaties of the United States.” 28 U.S.C. § 2241(c)(3). It shall “award the writ or issue an order directing the respondent to show cause why the writ should not be granted, unless it appears from the application that the applicant or person detained is not entitled thereto.” *Id.* § 2243. “[A]bsent a procedural failing, to determine whether a petition warrants summary dismissal[,] the standard is not whether the claim will ultimately—or even likely—succeed or fail, but rather, whether the petition states a cognizable, non-frivolous

claim.” *Neiss v. Bludworth*, 114 F.4th 1038, 1046 (9th Cir. 2024).

Liberally construed, the petition states cognizable, non-frivolous claims for habeas relief under § 2254. *See Zichko v. Idaho*, 247 F.3d 1015, 1020 (9th Cir. 2001) (federal courts must construe pro se petitions for writs of habeas corpus liberally). Petitioner’s allegations implicate due process rights clearly established in federal law. *In re Winship*, 397 U.S. 358, 364 (1970) (Due Process Clause requires convictions to be “upon proof beyond a reasonable doubt of every fact necessary to constitute the crime . . . charged”), *Crane v. Kentucky*, 476 U.S. 683, 690 (1986) (“[T]he Constitution guarantees criminal defendants a meaningful opportunity to present a complete defense.”) (internal quotations omitted); *Henderson v. Kibbe*, 431 U.S. 145, 154 (1977) (erroneous jury instruction can “by itself so infect[] the entire trial that the resulting conviction violates due process”) (internal citation omitted); *Cullen v. Pinholster*, 563 U.S. 170, 189 (2011) (stating “[t]here is no dispute” that effective assistance of counsel is required by clearly established federal law).

IT IS THEREFORE ORDERED that the Clerk shall serve electronically (1) a copy of this order and (2) a notice of assignment of prisoner case to a United States magistrate judge and accompanying magistrate judge jurisdiction consent or declination to consent form (requesting that respondent consent or decline to consent within 28 days of receipt of service) upon the Respondent and the Respondent’s attorney, the Attorney General of the State of California, at [SFAWTParalegals@doj.ca.gov](mailto:SFAWTParalegals@doj.ca.gov) and [docketingsfawt@doj.ca.gov](mailto:docketingsfawt@doj.ca.gov). The petition and exhibits thereto are available via the Electronic Case Filing System for the Northern District of California. The Clerk shall serve by mail a copy of this order on Petitioner.

Respondent shall file with the court and serve on Petitioner, within fifty-six (56) days of the issuance of this order, an answer conforming in all respects to Rule 5 of the Rules Governing Section 2254 Cases, showing cause why a writ of habeas corpus should not be granted. Respondent shall file, with the Answer, and serve on Petitioner, a copy of all portions of the state trial record that have been transcribed previously and that are relevant to a determination of the issues presented by the Petition.

If Petitioner wishes to respond to the Answer, he shall do so by filing a Traverse with the

1 court and serving it on Respondent within twenty-eight (28) days of his receipt of the Answer.

2 Respondent may file a motion to dismiss on procedural grounds in lieu of an Answer, as  
3 set forth in the Advisory Committee Notes to Rule 4 of the Rules Governing Section 2254 Cases.  
4 If Respondent files such a motion, it is due fifty-six (56) days from the date that this order is  
5 entered. If a motion is filed, Petitioner shall file with the court, and serve on Respondent, an  
6 opposition or statement of non-opposition within twenty-eight (28) days of receipt of the motion,  
7 and Respondent shall file with the court, and serve on Petitioner, a reply within fourteen (14) days  
8 of receipt of any opposition.

9 Petitioner is reminded that all communications with the court must be served on  
10 Respondent by mailing a true copy of the document to Respondent's counsel. Petitioner must keep  
11 the court informed of any change of address and must comply with the court's orders in a timely  
12 fashion. Failure to do so may result in the dismissal of this action for failure to prosecute pursuant  
13 to Federal Rule of Civil Procedure 41(b). *See Martinez v. Johnson*, 104 F.3d 769, 772 (5th Cir.  
14 1997) (Rule 41(b) applicable in habeas cases).

15 **IT IS SO ORDERED.**

16 Dated: April 10, 2025



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19 ROBERT M. ILLMAN  
United States Magistrate Judge